

and the provincial court should then hear the cause and either party might appeal. Bordley had filed a suit in the provincial court in the preceding year, in *indebitatus assumpsit* for freight alleged to be due; Dulany, for Forward, appeared and answered simply *nil dicit*; and on September 20, 1720, judgment was entered in Powlson's favor for £600 and specified amounts of tobacco for damages and costs. Attachments on the judgment were issued, and goods of Forward's in the hands of factors and agents of his were seized in amounts sufficient to cover the judgment several times over. Additional general writs were issued, but were returned marked *nulla bona*. Thomas Cockey, an agent of Forward's, was one in whose hands an attachment was laid. Dulany, for Forward, then appealed from the judgment to the Court of Appeals, but gave no bond for a stay or supersedeas, apparently thinking that the order of the Privy Council rendered it unnecessary. Bordley obtained an order for condemnation of the goods attached, and Dulany, for Forward and Cockey, appealed to the governor and council from the condemnation, but failed on the appeal. Cockey was lodged in jail upon a *capias ad satisfaciendum*, and, to save himself and Forward's assets, gave Powlson a bill of exchange on Forward for £600.

With the release of Powlson from jail as a languishing prisoner¹ and the conveyance of all his assets to the sheriff for sale to pay his debts, the bill of exchange was bought by Bordley in his own name; and from that point he became the litigant on the offensive side. He sent the bill to England, but it was dishonored and protested for non-payment, and returned to the province. Forward filed a bill in chancery in the province praying that the bill of exchange be stopped until the questions on appeal should be decided, and upon dismissal of his bill in chancery appealed to the provincial Court of Appeals. That court refused to impound the bill meanwhile.

The Court of Appeals, in Powlson's original suit from the provincial court, for freight, affirmed the judgment, and an appeal to the King in Council was entered for Forward.

Bordley proceeded against Cockey as drawer of the bill of exchange for £600, and Cockey, to stave off loss and possible incarceration, gave Bordley another bill, dated May 27, 1724, this time for £720, to cover the bill for £600 and the damages and costs, and at the same time gave bond to secure payment of the new bill, with Robert Gordon and William Rogers as sureties. For further security John Moale, another agent of Forward's, gave Bordley a note of his own for 20,000 pounds of tobacco and £50.

In London, Forward was meanwhile protesting to the Privy Council that its order of August, 1720, was being disregarded; and the council demanded an explanation from the deputy governor in Maryland.² On June 17, 1724, the appeal in Powlson's original suit for freight was heard by the Privy Council, and the judgment was reversed. There was some discussion in the province of a suggestion that Dulany, for Forward, should have sought settlement of the difficulties of his client in the admiralty proceeding, but Dulany explained his course of action.³ On the other hand, when the decision of the Privy Council, reversing

¹ Act 1721, ch. 18, *Archives*, XXXVIII, 305.

² *A. P. C., Col.*, II, 781-782.

³ *Archives*, XXV, 432.